

A STUDY ON CHILD WITNESS AND FORENSIC INTERVIEW OF YOUNG CHILDREN

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ABSTRACT

A witness is somebody who has, who professes to have, or is thought, by somebody with power to constrain declaration, to have information applicable to an occasion or other matter of intrigue. In law a witness is somebody who, either wilfully or under impulse, gives evidence, either oral or composed, of what the person knows or cases to think about the issue before some authority approved to take such a declaration. A percipient witness or eyewitness is one who affirms what they saw through his or her detects (e.g. seeing, hearing, smelling, contacting). That observation may be either with the unaided human sense or with the guide of an instrument, e.g. magnifying lens or stethoscope, or by other logical methods, e.g. a synthetic reagent which changes shading within the sight of a specific substance. An empirical research was done for the purpose of this study using random sampling method. 1583 respondents were met which makes the sample size equal to 1583. The independent variables of the study are age, gender and educational qualification. The dependent variable is age restriction in court witness, affecting the psychology of the children. From the responses collected for the research we conclude that the people don't support

the practise of making a child as witness in cases. This is because they have a fear that this affects the child's life mentally. The aim of the study is to know what people think about child witnessing. (Mellor and Dent 1994; Post 2015)

Keywords: child witness, psychology, eye witness.

INTRODUCTION

A witness is somebody who has, who professes to have, or is thought, by somebody with power to constrain declaration, to have information applicable to an occasion or other matter of intrigue. In law a witness is somebody who, either willfully or under impulse, gives evidence, either oral or composed, of what the person knows or cases to think about the issue before some authority approved to take such a declaration. (Evers, Notermans, and van Ommering 2011) A percipient witness or eyewitness is one who affirms what they saw through his or her detects (e.g. seeing, hearing, smelling, contacting). That observation may be either with the unaided human sense or with the guide of an instrument, e.g. magnifying lens or stethoscope, or by other logical methods, e.g. a synthetic reagent which changes shading within the sight of a specific substance. (Bajpai 2018)

TESTIMONY OF A CHILD: (Post 2015; Zaragoza 1995) A child or an individual in his long stretches of advancement is regularly subject to specific conditions, contingent on the conditions he lives in and supported in, remembering the financial differences each individual is raised in India. (Scott 1994) A child's declaration can change as it tends to be doctored by method for torment and constraining, and isn't liable to supreme self-expert and evaluation. As children, the psychological improvement is delicate in nature and can fluctuate in various circumstances. Subsequently, an appropriate inquiry here to ask would be, 'How can one characterise 'maturity' of a person?' (Mellor and Dent 1994; Evers, Notermans, and van Ommering 2011) Maturity is liable to the foundation and condition in which one has been conceived and raised in, consequently, maturity is

emotional and changes among different people. In a milestone case, *Suresh v. the State of U.P.* (“*Suresh Chandra vs State Of U.P. & Anr* on 9 November, 1995” n.d.) built up that a declaration from a 5-year-old child will likewise be allowable, inasmuch as the child can appreciate and comprehend the subject of the given issue. Thus, it announced that there is no base required age for an individual to lawfully affirm in the official courtroom. (Mellor and Dent 1994; Evers, Notermans, and van Ommering 2011; Scott 1994) Section 118 of the Indian Evidence Act makes reference to who is considered as sufficiently skilled to affirm in the courtroom; ‘All people will be able to affirm except if the Court thinks about that they are kept from understanding the inquiries put to them, or from giving normal responses to those inquiries, by delicate years... “Consequently, the above arrangement unmistakably expresses that one will affirm on the off chance that sufficiently capable whenever thought about generally by the courtroom. (Noeker and Franke 2018; Odell 2003; Poole 2016) ADMISSIBILITY OF THE TESTIMONY: The explanation for the court's dread of a child's declaration emerges because of different elements. Children are frequently viewed as delicate and at an unpredictable age where certain cases can have an enduring effect on the child's memory and the manner in which he sees things from consequently. (Mellor and Dent 1994). The court needs to consider different factors previously making the declaration permissible, for example, ensuring that the child plainly comprehends the subtleties of the condition, what prompted the event of those circumstance(s). (Bales 1987) Children regularly will in general be compliant because of the weight and the strain encompassing the whole situation, and the whole legal procedures can incur significant damage on a delicate personality, prompting breakdown and change in declaration. Subsequently, the court needs to deal with multifaceted viewpoints, ensuring that the child's declaration isn't influenced in any capacity. (Davies 1992). The aim of the research is to know whether the people are

aware of the age limits in witnessing. (Krause-Parello et al. 2018; Cirlugea and O'Donohue 2016)

OBJECTIVE

The aim of the research is to know whether the people are aware of the age limits in witnessing, to know whether they support child witnessing or not, to know whether they accept the child witness or not.

REVIEW OF LITERATURE

"Voir dire test"

"Voir dire Test": An idea got from the Anglo-Norman expression, which alludes to 'Vow to come clean'. The word voir (or voire), in this blend, originates from French which expresses, "What is valid". The test is led to decide the competency of a child witness. For the most part, the judge puts inquiries to the child witness to test his veracity and to check that the actualities develop with the movement of the going with certainties. This test is a forerunner to deciding the maturity and ability of the child to act in the full limit as a witness to affirm before the judge, henceforth, the judge may analyze the child by offering certain conversation starters which may not be identified with the continuous case. This is done so as to decide the total competency of the child witness, which might be restricted in nature generally. For the situation, '**Rameshwar S/o Kalyan Singh v. The State of Rajasthan**', (“*State Of M.P vs Ramesh And Anr* on 18 March, 2011” n.d.) the court held that each individual is skillful to be a witness in the official courtroom, except if unequipped for understanding the inquiry put before him/her, remembering the arrangements of Section 118 of the Indian Evidence Act. Ability to comprehend at a youthful age is bound to be reliant and to be shaped at the supposition and impression of what others state and depict, because of which the declaration of a child is bound to be adjusted or modified. Consequently, managing a child witness is of key significance. This was

likewise raised in the milestone case, "Nivrutti Pandurang Kokate and Ors. v. The State of Maharashtra", where the Supreme Court held that the declaration of a child witness must be examined in order to ensure that it was not given under any circumstance of intimidation and undue impact, and should validate other given evidence too.((Gopakumar et al. 2018; Wright 2015)

RESEARCH METHODOLOGY

An empirical research was done for the purpose of this study using random sampling method.1583 respondents were met which makes the sample size equal to 1583. The independent variables of the study are age, gender and educational qualification. The dependent variable is age restriction in court witness, affecting the psychology of the children. The statistical tools used in the study are chi-square test, ANOVA and frequency table.

Gender

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Male	1043	58.7	65.9	65.9
	Female	540	30.4	34.1	34.1
	Total	1583	89.1	100.0	100.0

With respect to the current survey results, the frequency table is created out of the survey responses received from several people. And the present frequency table is based on the gender of persons who were taken as samples. Among the samples, the number of male responses are comparatively more when compared to the number of responses by female samples. Where the sample response

Age

INTERVENTION

Section 118 in The Indian Evidence Act, 1872(“Section 118 in The Indian Evidence Act, 1872” n.d.)

118 Who may testify. All persons shall be competent to testify unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind. Explanation. A lunatic is not incompetent to testify, unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them.(“Section 118 of the Indian Evidence Act, 1872” 2013)

ANALYSIS AND DISCUSSION

Frequency Table

from Males is 1043 and the response from females is 540 in number. Thus, on the whole there were about 1583 samples taken for the present survey.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	20 to 30 years	398	22.4	25.1	25.1
	31 to 40 years	562	31.6	35.5	60.6
	41 to 50 years	488	27.5	30.8	91.5
	Above 50 years	135	7.6	8.5	100.0
	Total	1583	89.1	100.0	

With respect to the current survey results, the frequency table is created out of the survey responses received from several people. The present frequency table is based on the age of persons. Among the person with the age group of 20-30 years there were 398 sample responses taken and among

the age group 31-40 years there were 562 sample responses taken. Among the age group of 41-50 years there were 488 sample responses taken and among the age group of above 50 years there were 135 sample responses for this survey. Thus, on the whole there were about 1583 samples taken for the present survey.

Education

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	High school	172	9.7	10.9	10.9
	Higher secondary	556	31.3	35.1	46.0
	UG	452	25.4	28.6	74.5
	PG	334	18.8	21.1	95.6
	Others	69	3.9	4.4	100.0
	Total	1583	89.1	100.0	

With respect to the current survey results, the frequency table is created out of the survey responses received from several people. The present frequency table is based on the educational qualification of persons. Among the persons with a high school degree, there were 172 sample responses taken and among those who have higher secondary degree,

there were about 556 sample responses taken. Among those who have undergraduate degrees there were 452 sample responses taken and among those who have post graduate degrees, there were 334 sample responses for this survey. The response taken from others were 69 Thus, on the whole there were about 1583 samples taken for the present survey.

Marital status

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Married	618	34.8	39.0	39.0
	Unmarried	965	54.3	61.0	100.0
	Total	1583	89.1	100.0	

With respect to the current survey results, the frequency table is created out of the survey responses got from several people. The present frequency table is based on marital

status of persons who were taken as samples. Among the samples, the number of married person responses are comparatively less when compared to the number of responses by unmarried person samples. Where the sample

response from a married person is 618 and the response from a female is 965 in number. Thus, on the whole there

were about 1583 samples taken for the present survey.

Monthly Income

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	15000 – 30000	394	22.2	24.9	24.9
	30001 – 40000	764	43.0	48.3	73.2
	40001- 50000	310	17.4	19.6	92.7
	Above 50001	115	6.5	7.3	100.0
	Total	1583	89.1	100.0	

With respect to the current survey results, the frequency table is created out of the survey responses got from several people. The present frequency table is based on the monthly income of persons. Among the persons with monthly income of 15,000-30,000, there were 394 sample responses taken and among those who have monthly income of

30,001-40,000, there were about 764 sample responses taken. Among those who have a monthly income of 40,001-50,000 there were 310 sample responses taken and among those who have a monthly salary above 50,000, there were 115 sample responses for this survey. Thus, on the whole there were about 1583 samples taken for the present survey.

Occupation

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Business	230	12.9	14.5	14.5
	Private company employee	790	44.5	49.9	64.4
	Government job	447	25.2	28.2	92.7
	unemployed	116	6.5	7.3	100.0
	Total	1583	89.1	100.0	

With respect to the current survey results, the frequency table is created out of the survey responses got from several people. The present frequency table is based on occupation of the persons. Among the persons who are carrying, there were 230 sample responses taken and among the private employees, there were about 790 sample responses taken. Among those who have a government job there were 447 sample responses taken and among those who were unemployed, there were 116 sample responses for this survey. Thus, on the whole there were about 1583 samples taken for the present survey.

RESULT

HYPOTHESIS

NULL HYPOTHESIS: There is no significant association between gender and awareness on age limit to witness.

ALTERNATE HYPOTHESIS: There is significant association between gender and awareness on age limit to witness.

Gender * Is there any age limit or restriction to witness a child?

Crosstab

		1.Is there any age limit or restriction to witness a child?			
		Yes	No	Total	
Gender	Male	Count	503	540	1043
		% within Gender	48.2%	51.8%	100.0%
		% within 1.Is there any age limit or restriction to witness a child?	72.1%	61.0%	65.9%
Female		Count	195	345	540
		% within Gender	36.1%	63.9%	100.0%
		% within 1.Is there any age limit or restriction to witness a child?	27.9%	39.0%	34.1%
Total		Count	698	885	1583
		% within Gender	44.1%	55.9%	100.0%
		% within 1.Is there any age limit or restriction to witness a child?	100.0%	100.0%	100.0%

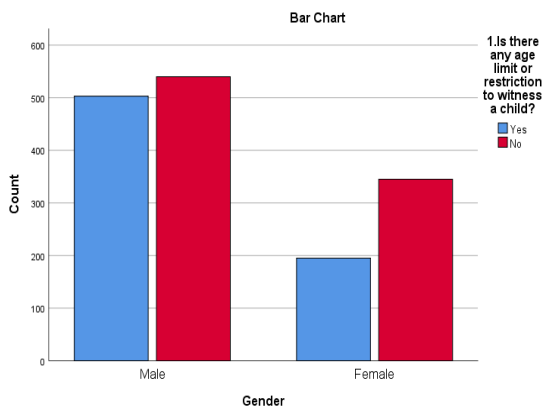
Chi-Square Tests

Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
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Pearson Chi-Square	21.185 ^a	1	.000		
Continuity Correction ^b	20.696	1	.000		
Likelihood Ratio	21.391	1	.000		
Fisher's Exact Test				.000	.000
Linear-by-Linear Association	21.171	1	.000		
N of Valid Cases	1583				

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 238.10.

b. Computed only for a 2x2 table



DISCUSSION

From the bar chart and the chi square test it is clear that the people on the whole are not aware that there are some restrictions in witnessing a child. Out of the responses collected nearly 55.9% of them that is nearly 885 of them are not aware of the age limit in witnessing a child. At Least from the males surveyed nearly half of them are aware of it. But the females are not. This survey result concludes that the males are more aware and more interested in knowing the legal things rather than the females. But this is not a healthy thing we need to make females also to be aware of all such things.

Since the p value is less than 0.05 the null hypothesis is rejected. Then it means there

is significant association between gender and awareness on age limit to witness.

HYPOTHESIS

NULL HYPOTHESIS: There is no significant association between gender and the agreeability that the children are affected psychologically.

ALTERNATE HYPOTHESIS: There is significant association between gender and the agreeability that the children are affected psychologically.

Gender * Making a child as a witness affect the child psychologically

Crosstab

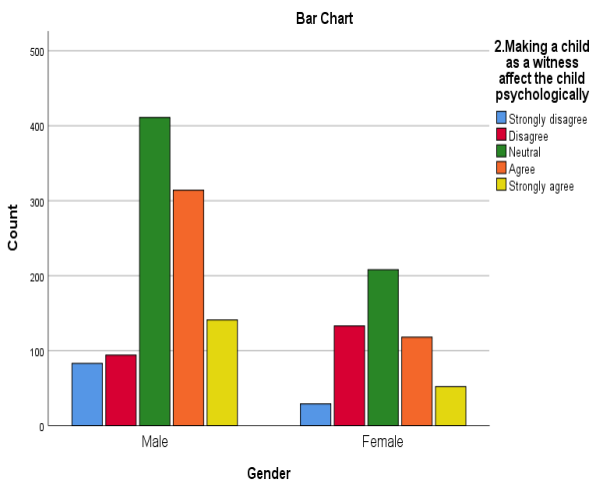
		2.Making a child as a witness affect the child psychologically						
		Strongly disagree	Disagree	Neutral	Agree	Strongly agree	Total	
Gender	Male	Count	83	94	411	314	141	1043
		% within Gender	8.0%	9.0%	39.4%	30.1%	13.5%	100.0%
		% within 2.Making a child as a witness affect the child psychologically	74.1%	41.4%	66.4%	72.7%	73.1%	65.9%
Female		Count	29	133	208	118	52	540
		% within Gender	5.4%	24.6%	38.5%	21.9%	9.6%	100.0%
		% within 2.Making a child as a witness affect the child psychologically	25.9%	58.6%	33.6%	27.3%	26.9%	34.1%
Total		Count	112	227	619	432	193	1583
		% within Gender	7.1%	14.3%	39.1%	27.3%	12.2%	100.0%
		% within 2.Making a child as a witness affect the child psychologically	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Chi-Square Tests

Value	df	Asymptotic Significance (2-sided)
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Pearson Chi-Square	77.248 ^a	4	.000
Likelihood Ratio	73.970	4	.000
Linear-by-Linear Association	21.991	1	.000
N of Valid Cases	1583		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 38.21.



DISCUSSION

From the chi square test and the bar diagram 40% of them nearly 600 of them agree and strongly agree with the statement that making a child as witness affects the child psychologically. And the other 40% of them are like it may sometimes affect and sometimes may not affect i.e. they stand neutral. And this neutral stand is actually acceptable because the psychological effects can be decided only upon the individual and not on the whole. And the remaining 20% of them say that they totally disagree with the above statement.

Since the p value is less than 0.05 the null hypothesis is rejected. Then it means there is significant association between gender and the agreeability that the children are affected psychologically.

CONCLUSIONS AND RECOMMENDATIONS(Kurien et al. 2011)

From the responses collected for the research we conclude that the people don't support the practise of making a child as witness in cases. This is because they have a fear that this affects the child's life mentally. But according to law only a mentally matured child can be a witness and so a matured child is no way affected by this. The law mostly accepts the witness of a child more easily than an adult because the child can never lie and will openly say everything without any fear or favor so which makes the judges know the actual thing that happened to decide a case. Since the parents or the general public don't like it the court must also ensure the safety and take

necessary steps that help the child while he\ she is a witness mentally and physically. Like instead of making the child come to the court the court can send an authorized person from the court to get the witness from the child in a common place like parks, malls. And the person who witness the child should be calm enough when he deals with the child and he must understand what the child is trying to convey for this they can send a teacher who can deal with a child easily for witnessing a child.(Gopakumar et al. 2018)

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